

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

UNITED STATES OF AMERICA)	
)	
v.)	Criminal Case No. 1:13-cr-00142-PB
)	
JOHNATHON IRISH)	
_____)	

**UNITED STATES’ MOTION TO STAY HEARING PENDING DISPOSITION OF
HENDERSON V. UNITED STATES**

On April 24, 2015, Johnathon Irish filed a motion to compel the Government to relinquish certain personal property seized during an investigation into his alleged criminal activities (of which he was ultimately convicted). As Mr. Irish acknowledged in his motion, the Government has made efforts to arrange the return of much of his personal property. However, Mr. Irish also seeks the release, to a third party, of some additional items, including:

- (1) A “Sig Sauer 5.56 caliber Sig 526 AR-15 type rifle bearing serial number 53E001626”;
- (2) A “Sig Sauer .45 caliber C3 1911 type pistol bearing serial number GS34120, belonging to Mr. Irish”;
- (3) A “Sig Sauer .40 caliber 226 pistol bearing serial number UU610922”; and
- (4) Various ammunition for these firearms.

Upon reviewing the defendant’s motion and the Government’s response, this Court issued an order on May 6, 2015 setting a hearing on the matter (for May 19, 2015), and directing

the parties to meet and confer and attempt to resolve the dispute by agreement prior to the hearing.¹

Subsequent to filing its response, the Government became aware of a case pending in the Supreme Court of the United States which may impact the Court's range of options in ruling on the defendant's motion. Specifically, in Henderson v. United States, Docket No. 13-1487 (argued February 24, 2015, decision pending), the question presented is whether, following a felony conviction that makes it unlawful to possess firearms under 18 U.S.C. § 922(g)(1), a defendant is entitled under Federal Rule of Criminal Procedure 41(g) or general equity principles to have non-contraband firearms that were held by the government during the criminal proceedings transferred to his wife or to his friend. The case implicates issues virtually identical to those posed here, to wit: whether Rule 41(g) contemplates the transfer of property to a third party; whether it is possible for a convicted felon to transfer his ownership interest in firearms without violating Section 922(g)(1)'s ban on possession; whether Section 922(g)(1) extinguishes a convicted felon's ownership interest in firearms; and, in sum, whether a district court can compel the Government, at a convicted defendant's request, to transfer his firearms to friends or family members. The decision in Henderson will, therefore, almost certainly provide useful guidance for this Court and the parties in disposing of the instant matter.

¹ On May 8, 2015, counsel for the Government and Mr. Irish did communicate and attempt to reach an agreement regarding the disposition of the specified property. Although the meeting was productive, the parties were unable to reach any such agreement. During that meeting, the defendant also noted his objection to the instant motion.

WHEREFORE, the Government requests that the Court stay the hearing now set for May 19, 2015 at 2:00 PM, until a decision is issued in Henderson v. United States.

Respectfully submitted,

DONALD FEITH
Acting United States Attorney

By: /s/ Nick Abramson
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Date: May 9, 2015

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on Johnathon Irish via E.C.F. and U.S. Mail (to address 311 Lyndeboro Road, New Boston, New Hampshire 03070).

/s/ Nick Abramson

Nick Abramson

Assistant United States Attorney